

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION**

Derrick Jerome Davis,	)	Civil Action No. 6:21-cv-02394-RMG
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
Deputy M. Bollman,	)	<b>ORDER AND OPINION</b>
	)	
Defendant.	)	
	)	

This matter is before the Court upon the Report and Recommendation (“R & R”) of the Magistrate Judge recommending the Court dismiss Plaintiff’s case for lack of prosecution. (Dkt. No. 46). For the reasons stated below, the Court adopts the R & R as the Order of the Court.

**I. Background**

On March 21, 2022, Defendant Deputy Bollman filed a motion for summary judgment (Dkt. No. 37). On March 22, 2022, the Court entered a *Roseboro* Order, which was mailed to Plaintiff. (Dkt. Nos. 38; 39). The *Roseboro* Order advised Plaintiff of the significance of a dispositive motion and that he was required to file a response to the motions. Plaintiff was advised that, if he failed to file a properly supported response, Defendant’s dispositive motions may be granted and end his case. Plaintiff’s deadline to respond to Defendant’s dispositive motions was April 22, 2022. Plaintiff did not file a response. On May 13, 2022, the Magistrate Judge issued an R & R recommending the Court dismiss Plaintiff’s case for failure to prosecute and ordered objections to the R & R due on May 27, 2022. (Dkt. No. 46). The Magistrate also noted that she would vacate the R & R if Plaintiff notified the Court within the time set forth for filing objections that he wants to continue this case and provides a response to Defendant’s motion for summary

judgment. Plaintiff did not file an objection or notify the Magistrate of his desire to continue this case. The matter is ripe for the Court's review.

## II. Standard

The Magistrate Judge makes only a recommendation to this Court that has no presumptive weight. The responsibility to make a final determination remains with the Court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). This Court must make a *de novo* determination of those portions of the R & R Plaintiff specifically objects. Fed. R. Civ. P. 72(b)(2). Where Plaintiff fails to file any specific objections, “a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation omitted). “Moreover, in the absence of specific objections to the R & R, the Court need not give any explanation for adopting the recommendation.” *Wilson v. S.C. Dept of Corr.*, No. 9:14-CV-4365-RMG, 2015 WL 1124701, at \*1 (D.S.C. Mar. 12, 2015). *See also Camby v. Davis*, 718 F.2d 198, 200 (4th Cir.1983). Plaintiff has not filed objections in this case and the R & R is reviewed for clear error.

## III. Discussion

Upon a review of the R & R, the Court finds the Magistrate Judge correctly determined that Plaintiff's case is subject to dismissal for failure to prosecute. *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919 (4th Cir. 1982); *see also Davis v. Williams*, 588 F.2d 69, 70 (4th Cir. 1978); Rule 41(b), FED. R. CIV. P. The Magistrate Judge issued an Order that was mailed to Plaintiff explaining that Plaintiff was required to file a response to Defendants' dispositive motions, or Defendants' dispositive motions may be granted and end his case. (Dkt. Nos. 38; 39). The deadline for Plaintiff to file a response to Defendants' dispositive motions was April 22, 2022. Additionally,

in the R & R, the Magistrate notified Plaintiff that she would vacate the R & R if the Plaintiff notified the Court of his desire to continue the case before May 27, 2022. (Dkt. No. 46). Because Plaintiff did not file a response to Defendant's dispositive motions or notify the Magistrate of his desire to continue the case, his case is dismissed for lack of prosecution.

#### **IV. Conclusion**

For the reasons stated above, the Court adopts the R & R (Dkt. No. 46) as the Order of the Court and Plaintiff's case is **DISMISSED** for lack of prosecution. **AND IT IS SO ORDERED.**

s/Richard Mark Gergel

Richard Mark Gergel  
United States District Judge

June 2, 2022  
Charleston, South Carolina